
SENATE BILL 6854

State of Washington

59th Legislature

2006 Regular Session

By Senator Rasmussen

Read first time 01/27/2006. Referred to Committee on Agriculture & Rural Economic Development.

1 AN ACT Relating to disclosure of animal information; amending RCW
2 42.56.380; reenacting and amending RCW 42.17.310; creating a new
3 section; providing an effective date; and providing an expiration date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that livestock
6 identification numbers, premise information, and animal movement data
7 are proprietary information that all have a role in defining a
8 livestock producer's position within the marketplace, including his or
9 her competitive advantage over other producers. The legislature
10 further finds that voluntary animal testing by a livestock producer
11 yields proprietary information that assists the producer to implement
12 on-farm animal health practices. The legislature therefore finds that
13 exempting certain voluntary livestock identification, premise,
14 movement, and testing information from state public disclosure
15 requirements will protect and maintain the highest level of animal
16 health, foster an environment that is more conducive to voluntary
17 participation, and lead to a more effective livestock identification
18 system.

1 **Sec. 2.** RCW 42.17.310 and 2005 c 424 s 16, 2005 c 349 s 1, 2005 c
2 312 s 6, 2005 c 284 s 1, 2005 c 172 s 13, and 2005 c 33 s 4 are each
3 reenacted and amended to read as follows:

4 (1) The following are exempt from public inspection and copying:

5 (a) Personal information in any files maintained for students in
6 public schools, patients or clients of public institutions or public
7 health agencies, or welfare recipients.

8 (b) Personal information in files maintained for employees,
9 appointees, or elected officials of any public agency to the extent
10 that disclosure would violate their right to privacy.

11 (c) Information required of any taxpayer in connection with the
12 assessment or collection of any tax if the disclosure of the
13 information to other persons would (i) be prohibited to such persons by
14 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the
15 taxpayer's right to privacy or result in unfair competitive
16 disadvantage to the taxpayer.

17 (d) Specific intelligence information and specific investigative
18 records compiled by investigative, law enforcement, and penology
19 agencies, and state agencies vested with the responsibility to
20 discipline members of any profession, the nondisclosure of which is
21 essential to effective law enforcement or for the protection of any
22 person's right to privacy.

23 (e) Information revealing the identity of persons who are witnesses
24 to or victims of crime or who file complaints with investigative, law
25 enforcement, or penology agencies, other than the public disclosure
26 commission, if disclosure would endanger any person's life, physical
27 safety, or property. If at the time a complaint is filed the
28 complainant, victim or witness indicates a desire for disclosure or
29 nondisclosure, such desire shall govern. However, all complaints filed
30 with the public disclosure commission about any elected official or
31 candidate for public office must be made in writing and signed by the
32 complainant under oath.

33 (f) Test questions, scoring keys, and other examination data used
34 to administer a license, employment, or academic examination.

35 (g) Except as provided by chapter 8.26 RCW, the contents of real
36 estate appraisals, made for or by any agency relative to the
37 acquisition or sale of property, until the project or prospective sale
38 is abandoned or until such time as all of the property has been

1 acquired or the property to which the sale appraisal relates is sold,
2 but in no event shall disclosure be denied for more than three years
3 after the appraisal.

4 (h) Valuable formulae, designs, drawings, computer source code or
5 object code, and research data obtained by any agency within five years
6 of the request for disclosure when disclosure would produce private
7 gain and public loss.

8 (i) Preliminary drafts, notes, recommendations, and intra-agency
9 memorandums in which opinions are expressed or policies formulated or
10 recommended except that a specific record shall not be exempt when
11 publicly cited by an agency in connection with any agency action.

12 (j) Records which are relevant to a controversy to which an agency
13 is a party but which records would not be available to another party
14 under the rules of pretrial discovery for causes pending in the
15 superior courts.

16 (k) Records, maps, or other information identifying the location of
17 archaeological sites in order to avoid the looting or depredation of
18 such sites.

19 (l) Any library record, the primary purpose of which is to maintain
20 control of library materials, or to gain access to information, which
21 discloses or could be used to disclose the identity of a library user.

22 (m) Financial information supplied by or on behalf of a person,
23 firm, or corporation for the purpose of qualifying to submit a bid or
24 proposal for (i) a ferry system construction or repair contract as
25 required by RCW 47.60.680 through 47.60.750 or (ii) highway
26 construction or improvement as required by RCW 47.28.070.

27 (n) Railroad company contracts filed prior to July 28, 1991, with
28 the utilities and transportation commission under RCW 81.34.070, except
29 that the summaries of the contracts are open to public inspection and
30 copying as otherwise provided by this chapter.

31 (o) Financial and commercial information and records supplied by
32 private persons pertaining to export services provided pursuant to
33 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to
34 export projects pursuant to RCW 43.23.035.

35 (p) Financial disclosures filed by private vocational schools under
36 chapters 28B.85 and 28C.10 RCW.

37 (q) Records filed with the utilities and transportation commission

1 or attorney general under RCW 80.04.095 that a court has determined are
2 confidential under RCW 80.04.095.

3 (r) Financial and commercial information and records supplied by
4 businesses or individuals during application for loans or program
5 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
6 or during application for economic development loans or program
7 services provided by any local agency.

8 (s) Membership lists or lists of members or owners of interests of
9 units in timeshare projects, subdivisions, camping resorts,
10 condominiums, land developments, or common-interest communities
11 affiliated with such projects, regulated by the department of
12 licensing, in the files or possession of the department.

13 (t) All applications for public employment, including the names of
14 applicants, resumes, and other related materials submitted with respect
15 to an applicant.

16 (u) The residential addresses, residential telephone numbers,
17 personal wireless telephone numbers, personal electronic mail
18 addresses, Social Security numbers, and emergency contact information
19 of employees or volunteers of a public agency, and the names, dates of
20 birth, residential addresses, residential telephone numbers, personal
21 wireless telephone numbers, personal electronic mail addresses, Social
22 Security numbers, and emergency contact information of dependents of
23 employees or volunteers of a public agency, which are held by any
24 public agency in personnel records, public employment related records,
25 or volunteer rosters, or are included in any mailing list of employees
26 or volunteers of any public agency. For purposes of this subsection,
27 "employees" includes independent provider home care workers as defined
28 in RCW 74.39A.240.

29 (v) The residential addresses and residential telephone numbers of
30 the customers of a public utility contained in the records or lists
31 held by the public utility of which they are customers, except that
32 this information may be released to the division of child support or
33 the agency or firm providing child support enforcement for another
34 state under Title IV-D of the federal social security act, for the
35 establishment, enforcement, or modification of a support order.

36 (w)(i) The federal social security number of individuals governed
37 under chapter 18.130 RCW maintained in the files of the department of
38 health, except this exemption does not apply to requests made directly

1 to the department from federal, state, and local agencies of
2 government, and national and state licensing, credentialing,
3 investigatory, disciplinary, and examination organizations; (ii) the
4 current residential address and current residential telephone number of
5 a health care provider governed under chapter 18.130 RCW maintained in
6 the files of the department, if the provider requests that this
7 information be withheld from public inspection and copying, and
8 provides to the department an accurate alternate or business address
9 and business telephone number. On or after January 1, 1995, the
10 current residential address and residential telephone number of a
11 health care provider governed under RCW 18.130.040 maintained in the
12 files of the department shall automatically be withheld from public
13 inspection and copying unless the provider specifically requests the
14 information be released, and except as provided for under RCW
15 42.17.260(9).

16 (x) Information obtained by the board of pharmacy as provided in
17 RCW 69.45.090.

18 (y) Information obtained by the board of pharmacy or the department
19 of health and its representatives as provided in RCW 69.41.044,
20 69.41.280, and 18.64.420.

21 (z) Financial information, business plans, examination reports, and
22 any information produced or obtained in evaluating or examining a
23 business and industrial development corporation organized or seeking
24 certification under chapter 31.24 RCW.

25 (aa) Financial and commercial information supplied to the state
26 investment board by any person when the information relates to the
27 investment of public trust or retirement funds and when disclosure
28 would result in loss to such funds or in private loss to the providers
29 of this information.

30 (bb) Financial and valuable trade information under RCW 51.36.120.

31 (cc) Client records maintained by an agency that is a domestic
32 violence program as defined in RCW 70.123.020 or 70.123.075 or a rape
33 crisis center as defined in RCW 70.125.030.

34 (dd) Information that identifies a person who, while an agency
35 employee: (i) Seeks advice, under an informal process established by
36 the employing agency, in order to ascertain his or her rights in
37 connection with a possible unfair practice under chapter 49.60 RCW

1 against the person; and (ii) requests his or her identity or any
2 identifying information not be disclosed.

3 (ee) Investigative records compiled by an employing agency
4 conducting a current investigation of a possible unfair practice under
5 chapter 49.60 RCW or of a possible violation of other federal, state,
6 or local laws prohibiting discrimination in employment.

7 (ff) Business related information protected from public inspection
8 and copying under RCW 15.86.110.

9 (gg) Financial, commercial, operations, and technical and research
10 information and data submitted to or obtained by the clean Washington
11 center in applications for, or delivery of, program services under
12 chapter 70.95H RCW.

13 (hh) Information and documents created specifically for, and
14 collected and maintained by, a quality improvement committee pursuant
15 to RCW 43.70.510 or 70.41.200, by a peer review committee under RCW
16 4.24.250, or by a quality assurance committee pursuant to RCW 74.42.640
17 or 18.20.390, regardless of which agency is in possession of the
18 information and documents.

19 (ii) Personal information in files maintained in a data base
20 created under RCW 43.07.360.

21 (jj) Financial and commercial information requested by the public
22 stadium authority from any person or organization that leases or uses
23 the stadium and exhibition center as defined in RCW 36.102.010.

24 (kk) Names of individuals residing in emergency or transitional
25 housing that are furnished to the department of revenue or a county
26 assessor in order to substantiate a claim for property tax exemption
27 under RCW 84.36.043.

28 (ll) The names, residential addresses, residential telephone
29 numbers, and other individually identifiable records held by an agency
30 in relation to a vanpool, carpool, or other ride-sharing program or
31 service. However, these records may be disclosed to other persons who
32 apply for ride-matching services and who need that information in order
33 to identify potential riders or drivers with whom to share rides.

34 (mm) The personally identifying information of current or former
35 participants or applicants in a paratransit or other transit service
36 operated for the benefit of persons with disabilities or elderly
37 persons.

1 (nn) The personally identifying information of persons who acquire
2 and use transit passes and other fare payment media including, but not
3 limited to, stored value smart cards and magnetic strip cards, except
4 that an agency may disclose this information to a person, employer,
5 educational institution, or other entity that is responsible, in whole
6 or in part, for payment of the cost of acquiring or using a transit
7 pass or other fare payment media, or to the news media when reporting
8 on public transportation or public safety. This information may also
9 be disclosed at the agency's discretion to governmental agencies or
10 groups concerned with public transportation or public safety.

11 (oo) Proprietary financial and commercial information that the
12 submitting entity, with review by the department of health,
13 specifically identifies at the time it is submitted and that is
14 provided to or obtained by the department of health in connection with
15 an application for, or the supervision of, an antitrust exemption
16 sought by the submitting entity under RCW 43.72.310. If a request for
17 such information is received, the submitting entity must be notified of
18 the request. Within ten business days of receipt of the notice, the
19 submitting entity shall provide a written statement of the continuing
20 need for confidentiality, which shall be provided to the requester.
21 Upon receipt of such notice, the department of health shall continue to
22 treat information designated under this section as exempt from
23 disclosure. If the requester initiates an action to compel disclosure
24 under this chapter, the submitting entity must be joined as a party to
25 demonstrate the continuing need for confidentiality.

26 (pp) Records maintained by the board of industrial insurance
27 appeals that are related to appeals of crime victims' compensation
28 claims filed with the board under RCW 7.68.110.

29 (qq) Financial and commercial information supplied by or on behalf
30 of a person, firm, corporation, or entity under chapter 28B.95 RCW
31 relating to the purchase or sale of tuition units and contracts for the
32 purchase of multiple tuition units.

33 (rr) Any records of investigative reports prepared by any state,
34 county, municipal, or other law enforcement agency pertaining to sex
35 offenses contained in chapter 9A.44 RCW or sexually violent offenses as
36 defined in RCW 71.09.020, which have been transferred to the Washington
37 association of sheriffs and police chiefs for permanent electronic
38 retention and retrieval pursuant to RCW 40.14.070(2)(b).

1 (ss) Credit card numbers, debit card numbers, electronic check
2 numbers, card expiration dates, or bank or other financial account
3 numbers, except when disclosure is expressly required by or governed by
4 other law.

5 (tt) Financial information, including but not limited to account
6 numbers and values, and other identification numbers supplied by or on
7 behalf of a person, firm, corporation, limited liability company,
8 partnership, or other entity related to an application for a horse
9 racing license submitted pursuant to RCW 67.16.260(1)(b), liquor
10 license, gambling license, or lottery retail license.

11 (uu) Records maintained by the employment security department and
12 subject to chapter 50.13 RCW if provided to another individual or
13 organization for operational, research, or evaluation purposes.

14 (vv) Individually identifiable information received by the work
15 force training and education coordinating board for research or
16 evaluation purposes.

17 (ww) Those portions of records assembled, prepared, or maintained
18 to prevent, mitigate, or respond to criminal terrorist acts, which are
19 acts that significantly disrupt the conduct of government or of the
20 general civilian population of the state or the United States and that
21 manifest an extreme indifference to human life, the public disclosure
22 of which would have a substantial likelihood of threatening public
23 safety, consisting of:

24 (i) Specific and unique vulnerability assessments or specific and
25 unique response or deployment plans, including compiled underlying data
26 collected in preparation of or essential to the assessments, or to the
27 response or deployment plans; and

28 (ii) Records not subject to public disclosure under federal law
29 that are shared by federal or international agencies, and information
30 prepared from national security briefings provided to state or local
31 government officials related to domestic preparedness for acts of
32 terrorism.

33 (xx) Commercial fishing catch data from logbooks required to be
34 provided to the department of fish and wildlife under RCW 77.12.047,
35 when the data identifies specific catch location, timing, or
36 methodology and the release of which would result in unfair competitive
37 disadvantage to the commercial fisher providing the catch data.

1 However, this information may be released to government agencies
2 concerned with the management of fish and wildlife resources.

3 (yy) Sensitive wildlife data obtained by the department of fish and
4 wildlife. However, sensitive wildlife data may be released to
5 government agencies concerned with the management of fish and wildlife
6 resources. Sensitive wildlife data includes:

7 (i) The nesting sites or specific locations of endangered species
8 designated under RCW 77.12.020, or threatened or sensitive species
9 classified by rule of the department of fish and wildlife;

10 (ii) Radio frequencies used in, or locational data generated by,
11 telemetry studies; or

12 (iii) Other location data that could compromise the viability of a
13 specific fish or wildlife population, and where at least one of the
14 following criteria are met:

15 (A) The species has a known commercial or black market value;

16 (B) There is a history of malicious take of that species; or

17 (C) There is a known demand to visit, take, or disturb, and the
18 species behavior or ecology renders it especially vulnerable or the
19 species has an extremely limited distribution and concentration.

20 (zz) The personally identifying information of persons who acquire
21 recreational licenses under RCW 77.32.010 or commercial licenses under
22 chapter 77.65 or 77.70 RCW, except name, address of contact used by the
23 department, and type of license, endorsement, or tag. However, the
24 department of fish and wildlife may disclose personally identifying
25 information to:

26 (i) Government agencies concerned with the management of fish and
27 wildlife resources;

28 (ii) The department of social and health services, child support
29 division, and to the department of licensing in order to implement RCW
30 77.32.014 and 46.20.291; and

31 (iii) Law enforcement agencies for the purpose of firearm
32 possession enforcement under RCW 9.41.040.

33 (aaa)(i) Discharge papers of a veteran of the armed forces of the
34 United States filed at the office of the county auditor before July 1,
35 2002, that have not been commingled with other recorded documents.
36 These records will be available only to the veteran, the veteran's next
37 of kin, a deceased veteran's properly appointed personal representative

1 or executor, a person holding that veteran's general power of attorney,
2 or to anyone else designated in writing by that veteran to receive the
3 records.

4 (ii) Discharge papers of a veteran of the armed forces of the
5 United States filed at the office of the county auditor before July 1,
6 2002, that have been commingled with other records, if the veteran has
7 recorded a "request for exemption from public disclosure of discharge
8 papers" with the county auditor. If such a request has been recorded,
9 these records may be released only to the veteran filing the papers,
10 the veteran's next of kin, a deceased veteran's properly appointed
11 personal representative or executor, a person holding the veteran's
12 general power of attorney, or anyone else designated in writing by the
13 veteran to receive the records.

14 (iii) Discharge papers of a veteran filed at the office of the
15 county auditor after June 30, 2002, are not public records, but will be
16 available only to the veteran, the veteran's next of kin, a deceased
17 veteran's properly appointed personal representative or executor, a
18 person holding the veteran's general power of attorney, or anyone else
19 designated in writing by the veteran to receive the records.

20 (iv) For the purposes of this subsection (1)(aaa), next of kin of
21 deceased veterans have the same rights to full access to the record.
22 Next of kin are the veteran's widow or widower who has not remarried,
23 son, daughter, father, mother, brother, and sister.

24 (bbb) Those portions of records containing specific and unique
25 vulnerability assessments or specific and unique emergency and escape
26 response plans at a city, county, or state adult or juvenile
27 correctional facility, the public disclosure of which would have a
28 substantial likelihood of threatening the security of a city, county,
29 or state adult or juvenile correctional facility or any individual's
30 safety.

31 (ccc) Information compiled by school districts or schools in the
32 development of their comprehensive safe school plans pursuant to RCW
33 28A.320.125, to the extent that they identify specific vulnerabilities
34 of school districts and each individual school.

35 (ddd) Information regarding the infrastructure and security of
36 computer and telecommunications networks, consisting of security
37 passwords, security access codes and programs, access codes for secure

1 software applications, security and service recovery plans, security
2 risk assessments, and security test results to the extent that they
3 identify specific system vulnerabilities.

4 (eee) Information obtained and exempted or withheld from public
5 inspection by the health care authority under RCW 41.05.026, whether
6 retained by the authority, transferred to another state purchased
7 health care program by the authority, or transferred by the authority
8 to a technical review committee created to facilitate the development,
9 acquisition, or implementation of state purchased health care under
10 chapter 41.05 RCW.

11 (fff) Proprietary data, trade secrets, or other information that
12 relates to: (i) A vendor's unique methods of conducting business; (ii)
13 data unique to the product or services of the vendor; or (iii)
14 determining prices or rates to be charged for services, submitted by
15 any vendor to the department of social and health services for purposes
16 of the development, acquisition, or implementation of state purchased
17 health care as defined in RCW 41.05.011.

18 (ggg) The personally identifying information of persons who acquire
19 and use transponders or other technology to facilitate payment of
20 tolls. This information may be disclosed in aggregate form as long as
21 the data does not contain any personally identifying information. For
22 these purposes aggregate data may include the census tract of the
23 account holder as long as any individual personally identifying
24 information is not released. Personally identifying information may be
25 released to law enforcement agencies only for toll enforcement
26 purposes. Personally identifying information may be released to law
27 enforcement agencies for other purposes only if the request is
28 accompanied by a court order.

29 (hhh) Financial, commercial, operations, and technical and research
30 information and data submitted to or obtained by the life sciences
31 discovery fund authority in applications for, or delivery of, grants
32 under chapter 43.350 RCW, to the extent that such information, if
33 revealed, would reasonably be expected to result in private loss to the
34 providers of this information.

35 (iii) Records of mediation communications that are privileged under
36 chapter 7.07 RCW.

37 (jjj) The application for animal premise registration; a premise
38 number; individual animal identification numbers; group lot

1 identification numbers; animal movement data provided by the livestock
2 industry; and passwords, linkages, and identification numbers created
3 by the state department of agriculture, the United States department of
4 agriculture, or private companies for the purpose of meeting the
5 requirements of a state or national livestock identification program.
6 These are exempt from disclosure due to their proprietary nature.

7 (kkk) Animal testing information submitted to the state department
8 of agriculture by a producer or his or her designee on a voluntary
9 basis. This information is exempt from disclosure due to its
10 proprietary nature. This exemption does not apply to reportable
11 disease investigations once they are complete and found to be positive.

12 (2) Except for information described in subsection (1)(c)(i) of
13 this section and confidential income data exempted from public
14 inspection pursuant to RCW 84.40.020, the exemptions of this section
15 are inapplicable to the extent that information, the disclosure of
16 which would violate personal privacy or vital governmental interests,
17 can be deleted from the specific records sought. No exemption may be
18 construed to permit the nondisclosure of statistical information not
19 descriptive of any readily identifiable person or persons.

20 (3) Inspection or copying of any specific records exempt under the
21 provisions of this section may be permitted if the superior court in
22 the county in which the record is maintained finds, after a hearing
23 with notice thereof to every person in interest and the agency, that
24 the exemption of such records is clearly unnecessary to protect any
25 individual's right of privacy or any vital governmental function.

26 (4) Agency responses refusing, in whole or in part, inspection of
27 any public record shall include a statement of the specific exemption
28 authorizing the withholding of the record (or part) and a brief
29 explanation of how the exemption applies to the record withheld.

30 **Sec. 3.** RCW 42.56.380 and 2005 c 274 s 418 are each amended to
31 read as follows:

32 The following information relating to agriculture and livestock is
33 exempt from disclosure under this chapter:

- 34 (1) Business-related information under RCW 15.86.110;
35 (2) Information provided under RCW 15.54.362;
36 (3) Production or sales records required to determine assessment
37 levels and actual assessment payments to commodity boards and

1 commissions formed under chapters 15.24, 15.26, 15.28, 15.44, 15.65,
2 15.66, 15.74, 15.88, 15.100, and 16.67 RCW or required by the
3 department of agriculture to administer these chapters or the
4 department's programs;

5 (4) Consignment information contained on phytosanitary certificates
6 issued by the department of agriculture under chapters 15.13, 15.49,
7 and 15.17 RCW or federal phytosanitary certificates issued under
8 C.F.R. 353 through cooperative agreements with the animal and plant
9 health inspection service, United States department of agriculture, or
10 on applications for phytosanitary certification required by the
11 department of agriculture;

12 (5) Financial and commercial information and records supplied by
13 persons (a) to the department of agriculture for the purpose of
14 conducting a referendum for the potential establishment of a commodity
15 board or commission; or (b) to the department of agriculture or
16 commodity boards or commissions formed under chapter 15.24, 15.28,
17 15.44, 15.65, 15.66, 15.74, 15.88, 15.100, or 16.67 RCW with respect to
18 domestic or export marketing activities or individual producer's
19 production information;

20 (6) Except under RCW 15.19.080, information obtained regarding the
21 purchases, sales, or production of an individual American ginseng
22 grower or dealer;

23 (7) Information that can be identified to a particular business and
24 that is collected under section 3(1), chapter 235, Laws of 2002;
25 (~~and~~)

26 (8) Financial statements provided under RCW 16.65.030(1)(d);

27 (9) The application for animal premise registration; a premise
28 number; individual animal identification numbers; group lot
29 identification numbers; animal movement data provided by the livestock
30 industry; and passwords, linkages, and identification numbers created
31 by the state department of agriculture, the United States department of
32 agriculture, or private companies for the purpose of meeting the
33 requirements of a state or national livestock identification program.
34 These are exempt from disclosure due to their proprietary nature; and

35 (10) Animal testing information submitted to the state department
36 of agriculture by a producer or his or her designee on a voluntary
37 basis. This information is exempt from disclosure due to its

1 proprietary nature. This exemption does not apply to reportable
2 disease investigations once they are complete and found to be positive.

3 NEW SECTION. Sec. 4. Section 2 of this act expires July 1, 2006.

4 NEW SECTION. Sec. 5. Section 3 of this act takes effect July 1,
5 2006.

--- END ---